

LAW AND PUBLIC SAFETY

DIVISION OF CRIMINAL JUSTICE

Body Armor Replacement Fund Program

Proposed Readoption:N.J.A.C. 13:80A

Authorized By: Vaughn L. McKoy, Assistant Attorney General,
 Acting Director, Division of Criminal Justice

Authority: N.J.S.A. 52:17B-4.4 and 101

Calendar Reference: See Summary below for an explanation of the
 exception to the calendar requirement.

Proposal Number: PRN 2003-251

Interested persons may submit written comments relevant to
the proposal on or before 5:00 P.M., September 5, 2003. Comments
and any inquiries about submissions or responses should be
submitted in writing to:

Division of Criminal Justice
Program Development & Grants Section
Body Armor Replacement Fund Program, Public Comments
P.O. Box 085
Trenton, New Jersey 08625-9919

Written comments and any inquiries can also be submitted via

facsimile to: Fax Number: 609-292-1451

s/
AAG Vaughn L. McKoy, Acting Director

Date: May 29, 2003

Proposed May 29, 2003 by AAG Vaughn L. McKoy, Acting Director

The agency proposal follows:

Summary

Pursuant to the provisions of N.J.S.A. 52:14B-5.1, which replaced Executive Order No 66 (Byrne), the Division of Criminal Justice (hereafter the Division) proposes the readoption, without amendments, of the Body Armor Replacement Fund Program administrative rules, N.J.A.C. 13:80A. The current rules expire on November 28, 2003, pursuant to N.J.S.A. 52:14B-5.1c.

These rules set forth the guidelines followed by the Division in its administration of the Body Armor Replacement Fund Program (hereafter "the Program"), and the procedures to be followed by applicant agencies in applying for grant funds. The rules provide that awards can only be used by agencies to purchase body armor vests for their eligible officers.

The Director of the Division now proposes to readopt the existing rules, without amendment.

N.J.A.C. 13:80A is summarized as follows:

N.J.A.C. 13:80A-1 outlines the general provisions of the rules.

N.J.A.C. 13:80A-1.1 sets forth the purpose of the rules.

N.J.A.C. 13:80A-1.2 describes the scope of the rules.

N.J.A.C. 13:80A-1.3 sets forth the legal authority for the rules and the delegation of responsibility for administering the program from the Attorney General to the Director of the Division of Criminal Justice.

N.J.A.C. 13:80A-1.4 sets forth the definitions of terms used in the subchapters.

N.J.A.C. 13:80A-2 describes how the Division of Criminal Justice administers the program and sets forth the notification procedure and application components.

N.J.A.C. 13:80A-2.1 sets forth allowable uses of and limitations placed upon grant funds.

N.J.A.C. 13:80A-2.2 describes the process of notifying potential applicants of the availability of grant funds and establishes that awards will be made annually.

N.J.A.C. 13:80A-2.3 provides that applicants must timely file applications in order to be eligible for funds.

N.J.A.C. 13:80A-2.4 establishes the minimum components of an application for grant funds.

N.J.A.C. 13:80A-2.5 establishes that applications for grants

under this program and any supporting documentation are not public records but are confidential and will not be released except to law enforcement personnel in connection with their official duties.

N.J.A.C. 13:80A-3 prescribes applicant selection criteria, the grant calculation and award process, and provides minimum standards of body armor purchased with grant funds.

N.J.A.C. 13:80A-3.1 provides for initial and successive annual program grants made after the conclusion of the State fiscal year.

N.J.A.C. 13:80A-3.2 identifies the selection criteria used to determine eligible applicants and requires the Division to notify ineligible applicants of that fact and the reasons therefor.

N.J.A.C. 13:80A-3.3 provides an opportunity for ineligible applicants to request reconsideration and it also prohibits appeals of grant awards.

N.J.A.C. 13:80A-3.4 sets forth the grant award process and specifies the minimum base grant to be awarded to each eligible applicant. It also identifies the formula used to apportion any remaining funds among all eligible applicants. Provision is made to allow the Director to adjust an applicant's subsequent award in

order to address errors made in a previous award.

N.J.A.C. 13:80A-3.5 provides that grant awards will be forwarded to the chief financial officer of each applicant agency's governing body for deposit into an appropriate account. It also prohibits using grant funds for indirect costs or administrative expenses.

N.J.A.C. 13:80A-3.6 establishes minimum standards of body armor purchased with grant funds and delegates the purchasing decision concerning the types of threat levels, models and styles of vests to the head of each agency. It also delegates to each agency head the scheduling determinations concerning which officers are to receive vests and when.

N.J.A.C. 13:80A-4 outlines grantee accountability and reporting requirements.

N.J.A.C. 13:80A-4.1 urges each grant recipient to expend the award within one year of receipt and authorizes the Division to require a grantee to return grant funds which remain unexpended one year after receipt, unless good cause is shown to retain the funds.

N.J.A.C. 13:80A-4.2 provides reporting requirements for grant recipients.

Although these rules are proposed for readoption, without amendment, the Division is in the process of preparing amendments to address several substantive and procedural issues, including changes resulting from an amendment to N.J.S.A. 52:17B-4.4 which expanded the definition of law enforcement agencies eligible to participate in the fund to include investigators in the Division of Criminal Justice and probation officers in the Administrative Office of the Courts. The Division notes, however, that grants awarded under the existing rules and the proposed readoption herein are being awarded consistent with the statute, as amended.

These rules were precipitated by the enactment of N.J.S.A. 52:17B-4.4. That law created the Body Armor Replacement Fund. It provided for the establishment of a non-lapsing revolving fund, financed through the imposition of a \$1.00 fee, added to fines and penalties assessed upon a conviction for a motor vehicle and traffic offense. The fund is utilized to make grants to local law enforcement agencies, the Division of State Police, the State Department of Corrections, investigators in the Division of Criminal Justice, and probation officers in the Administrative Office of the Courts.

These grants have assisted those organizations in offsetting

costs of purchasing body armor vests for their eligible officers.

The law directed the Attorney General to promulgate rules and regulations to carry out this grant program. The Attorney General has designated the Director of the Division of Criminal Justice as the person to administer the Body Armor Replacement Fund program and to promulgate rules to implement this Act.

The Director of the Division now proposes to readopt the existing rules, without amendment. As the Division has provided for a 60-day comment period for this readoption proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

These rules have had a positive social impact in that they implemented the legislation creating the Body Armor Replacement Fund. This fund has provided grants to local law enforcement agencies, the Division of State Police, the Department of Corrections, the Division of Criminal Justice, and the Administrative Office of the Courts to acquire body armor for investigators in the Division, and for law enforcement,

corrections and probation officers. Body armor is intended to provide ballistic and trauma protection to the officer, thereby decreasing the likelihood of serious injury or death to law enforcement personnel.

Economic Impact

These rules have had a positive economic impact on local law enforcement agencies, the Division of State Police, the Department of Corrections, the Division of Criminal Justice, and the Administrative Office of the Courts by providing funds to acquire body armor for law enforcement personnel. The rules also have had a positive economic impact by reducing the likelihood of serious injury or death, thereby saving health care and insurance costs.

These rules have not had any adverse economic impact on the public because the enabling legislation provides that monies from the fund shall come from the imposition of a fee, in addition to fines and penalties and forfeitures imposed by a judge upon an adjudication of guilt for motor vehicle and traffic offenses.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption were not issued: 1) under the authority of any Federal law or State statute that incorporates or refers to Federal law, Federal standards or Federal requirements; or 2) to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements.

Jobs Impact

The Division of Criminal Justice anticipates that the rules proposed for readoption will not result in the creation of new jobs or cause the loss of existing jobs.

Agriculture Industry Impact

The rules proposed for readoption will not have any impact on the agriculture industry in New Jersey or elsewhere.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption do not impose reporting, record keeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption apply only to those law enforcement agencies applying for and receiving funds under these rules. The rules do not impact small businesses.

Smart Growth Impact

The rules proposed for readoption will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:80A.